

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-mc-00027-MR**

DALTON ALONZO DIXON,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
STATE OF NORTH CAROLINA and)	
STATE OF VIRGINIA,)	
)	
Respondents.)	
_____)	

THIS MATTER is before the Court *sua sponte*.

The *pro se* Petitioner filed this petition seeking the appointment of the Clerk of Court “as fiduciary trustee for the limited purpose of discharging on debt” while he was incarcerated at the Marion Correctional Institution. [Doc. 1]. On September 30, 2021, the Clerk of Court mailed the Petitioner a Notice of Deficiency informing him that he must either pay the filing fee or complete and return an affidavit form, a copy of which was provided, within 21 days. [Doc. 2]. Petitioner was cautioned that “[f]ailure to do so may result in the dismissal of this action without prejudice for failure to prosecute.” [Id.].

The Petitioner has failed to comply with the Notice of Deficiency, and the time to do so has expired. The Petitioner appears to have abandoned


this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice. See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

The Clerk of Court is respectfully directed to terminate this action.

IT IS SO ORDERED.

Signed: October 29, 2021



Martin Reidinger
Chief United States District Judge

